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SUBJECT: EAST JAVA MUDFLOW UPDATE: POLICE DROP CASE AGAINST LAPINDO;  
SUBSIDENCE THREATENS VILLAGES AND NEW INFRASTRUCTURE

REF: SURABAYA70 AND PREVIOUS

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1. (SBU) Summary: On August 5, the East Java Provincial Police Chief (Kapolda) announced that his office was dropping its investigation into the cause of the Sidoarjo mudflow. This decision effectively absolves the Lapindo company and its staff of responsibility for causing the mudflow, which has inundated numerous villages and displaced thousands of residents and businesses since it began in May 2006. Initial public reaction has been universally negative, with many suggesting that this "inappropriate decision" favors business over public interests. Meanwhile, new subsidence appeared in areas designated for relocation of critical transportation infrastructure raising questions about the long-term viability and safety of new road and rail routes. End summary.

A "Natural Disaster"

2. (SBU) Three years after the mud started flowing, the East Java Police Department has dropped its investigation into the causes of the Sidoarjo mudflow. In his instruction letter dropping the investigation, East Java Kapolda, Inspector General Anton Bachrul Alam, determined that the investigative team had not been able to prove that there was correlation between Lapindo's drilling activity and the mudflow. The letter states that the investigators failed to prove that Lapindo's drilling triggered the mudflow. The East Java Prosecutor's Office had returned the police dossiers on four previous occasions for insufficient evidence. Lapindo and 13 staff members involved in drilling have been officially absolved of responsibility.

3. (SBU) The Head of East Java Police Public Relations Department said the Kapolda's instruction letter to drop the case was also based on 2009 legal verdicts from both the Jakarta State Court and the Supreme Court, which determined that Lapindo was not guilty of causing the mudflow. Previously, Parliament's Special Committee of Sidoarjo Mudflow Mitigation had asked President Yudhoyono to revise the Presidential Regulation to reflect the courts' decisions that the mudflow is a natural disaster and therefore no longer a corporate responsibility.

Hatta Rajasa, the State Secretary, told journalists in Jakarta that the central government is preparing a revised Presidential Regulation on mudflow soon.

#### Another Corporate Victory

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14. (SBU) The Kapolda's announcement was criticized by many observers, who claimed that the decision demonstrated yet another victory of corporate influence over public interests. Dr. Suparto Wijoyo, Airlangga University, told ConGen Surabaya that the Kapolda's decision to issue such an instruction letter has tarnished the integrity of Indonesian law. He argued that the Kapolda does not have authority to declare Lapindo not guilty; only the courts could do so. Pointing to the conclusion of 42 international geologists at the October 2008 International Seminar of American Association of Petroleum Geologist (AAPG) that the mudflow was a manmade disaster, he observed that the Kapolda neglected the fact that the mudflow is a catastrophic man-made disaster which has caused huge suffering and economic loss. Mohammad Mirdas, MP of East Java parliament, and Muhammad Syaiful Aris, Director of Surabaya Legal Aid Institute which brought the original court case, told us that the Kapolda's decision was a corporate victory against the law. During an interview with Suara Surabaya radio station, Dr. Suparto said that he would urge the President to review the job performance of the East Java Kapolda. In contrast, Lapindo's Vice President said that the company welcomes the Kapolda's instruction letter.

15. (SBU) The Presidential Regulation, which established the Sidoarjo Mud Management Agency (BPLS), stated that Lapindo was responsible for mitigation efforts and compensation to victims within the "impacted area." A BPLS official told us that the promised Presidential Regulation on BPLS would release Lapindo from its financial obligations regarding mitigation. Lapindo would, however, still be responsible for its

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compensation commitments. As reported reftels, financial difficulties have already affected Lapindo's support for mitigation efforts and delayed final compensation payments to victims. The government has promised to compensate the growing number of victims outside the impact area from the state budget.

With Lapindo absolved of responsibility by the courts, legislators, and the now the police, the government must now assign clear responsibility for funding BPLS's critical mitigation efforts.

#### Subsidence Threatens Another Village, New Infrastructure

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16. (SBU) New land subsidence 3.5 kms west of the epicenter threatens the planned relocation of critical transportation infrastructure. As reported reftels, BPLS is concerned by increasing subsidence levels to the north and west of the mudflow containment areas. Most recently, two flammable geysers erupted inside two houses in a village west of Porong and within 300 meters of planned new infrastructure. The Regent of Sidoarjo publicly urged BPLS to conduct thorough studies on the impact of new subsidence on relocation plans. On August 10, 200 meters of the outermost dike at Gempolsari village northeast of the epicenter subsided 3.5 meters, but did not completely collapse. BPLS immediately repaired and strengthened the dike walls. Should this dike fail, mud and water will inundate a previously unaffected village.

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